IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.6869 OF 2005

1. Rajendra Tukaram Lad
2. Laxman Ramdas Dandavate ...Applicants
Vs.
The State of Maharashtra ...Respondent

Shri R.D.Suryawanshi for the Applicants.
Ms S. D. Shinde, A.P.P. for the Respondent.

CORAM : A. S. OKA, J.
DATE : OCTOBER 24, 2005.

P.C.:

1. Heard the Advocate appearing for the Applicants and the learned A.P.P. for the State. The offence is registered under sections 307, 452, 384, 427 read with section 34 of the Indian Penal Code.

2. The case of the prosecution is that on 15th July, 2003 in the afternoon in an office of a builder, the accused persons entered the cabin of the complainant and threatened him not to move and sit quiet. They opened fire and broke the screen of the computer and also fired on the table of the office. After giving threats to persons who were present there, they went out of the office. The investigation has been completed and chargesheet has been filed.

3. It is not in dispute that though the Applicants were arrested on 13th January, 2005, till

today, the Test Identification Parade is not conducted. It is not the case of the prosecution that any of the eye-witnesses or the complainant knew the accused persons personally. It is stated that there is recovery of choppers at the instance of the Applicants. However, when the complaint was filed against the unidentified accused persons, for such a long time Test Identification Parade is not held. It is true that failure to hold Test Identification Parade by itself may not be fatal to the prosecution. However, the said fact is required to be considered while considering the prayer for bail. It is not the case of the prosecution that any one has been injured in the offence. In my view, after completion of investigation, a case is made out for enlarging the Applicants on bail. However, stringent conditions will have to be imposed to ensure that the Applicants will not jump the bail and attend the dates fixed in the trial.

4. Hence, I pass the following order:

: O R D E R :

i) The Applicants shall be enlarged on bail in connection with **C.R.No.I-158 of 2003 registered with**

Vashi Police Station, Navi Mumbai, subject to furnishing a personal bond of **Rs.35,000/- each** with one or two local sureties in the like amount.

ii) The Bail is granted subject to condition that till the conclusion of the trial, the Applicants will not enter the area falling within the jurisdiction of Vashi Police Station, Navi Mumbai.

iii) The Bail is granted subject to condition that the Applicants will report to the concerned local police station near the place of their respective residence once in a fortnight till the conclusion of the trial.

iv) The Bail is granted subject to condition that the Applicants shall not, directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with the prosecution evidence.

v) The Applicants shall co-operate with the learned Trial Judge for expeditious disposal of the trial. Any attempt by the Applicants to delay the trial may be a ground for cancellation of bail.

vi) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

vii) Application is disposed of in above terms.

viii) The parties to act upon an authenticated copy of this order.

JUDGE